

**REMARKS**

Applicants have fully and completely responded to the Final Office (Paper No. 16) in the Reply filed July 8, 2002. That Reply is hereby incorporated by reference into this Preliminary Amendment. The Request for Continued Examination (RCE) accompanying this Preliminary Amendment therefore satisfies 37 C.F.R. § 1.114.

Applicants submit this Preliminary Amendment to present additional arguments, to respond to the Advisory Action, and to amend the claims.

Claims 20-40 have been canceled and the subject matter related to claims 24-29 and 31-33 has been submitted as new claims 51-60. No new matter enters by these amendments.

Applicants note in particular with respect to the rejection of claims 34-40 under 35 U.S.C. § 112, first paragraph (enablement), these claims have been canceled. Also, the statements in the rejection and in the Advisory Action suggest that the Patent Office considers certain cells indispensable for the practice of the claimed invention. For example, the Examiner asserts that professional antigen presenting cells are required (*see* Advisory Action at Page 2). However, one skilled in the art is familiar with numerous techniques where tumor antigens are used in vectors or in methods to produce an immune response against tumors, including those involving or using tumor cells. In fact, various clinical trials in the tumor vaccine field have been reported where autologous tumor cells have been used to generate an anti-tumor response. This substantiates applicants' comments that any cell can be used in processes to produce anti-tumor CTLs.

The specification does not specifically limit the type of cell than can be used. Certain cells may be more advantageous in certain applications. However, there is no requirement that an application disclose the optimum way to use an invention for every particular embodiment.

The Examiner has also asserted that cell stimulating treatments are necessary. While exogenous IL-2 or GM-CSF treatments have been used on occasion and may, under certain circumstances, increase the efficacy of a treatment, there is no requirement that these compounds be used in order to produce an immune reaction. Clearly, the immune system is capable of secreting these signals. Furthermore, the Examiner notes the excerpt of Paul et al., at page 967, as indicating that IL-2 is a required signal. This interpretation apparently does not take into

account the lower part of the Figure where IL-2 does not appear as a "required" signal. It is also important to note that this Figure does not claim to represent the only possible way CTLs can be produced. One of skill in the art knows that MHC class I molecules can be involved in CTL production.

Applicants also note that claims 20-23, 29, and 35-36, previously rejected under 35 U.S.C. § 102, have been canceled.

With respect to the rejections under 35 U.S.C. § 103, claims 20-40 have been canceled. The new claims recite recombinant adenoviruses and methods that are not taught or suggested by the cited art. In addition, there is no specific motivation to combine the cited documents to arrive at applicants' new claims. Even if there was, there is no expectation of success based on the contents of the cited documents. Applicants also reiterate the statements that the Zhai abstract document is not an enabling document, especially for the reasons the Examiner has applied it in this case.

Applicants respectfully request entry of the foregoing amendment and entry of the Amendment in the Reply of July 8, 2002. Applicants believe that this application is now in condition for allowance. If the Examiner believes that prosecution might be furthered by discussing the application with Applicants' representative, in person or by telephone, we would welcome the opportunity to do so.

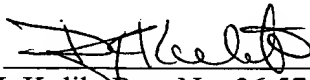
No additional extension of time fees or requests for extension of time are believed to be necessary in this or the parent application in order to enter and consider this paper. If, however, any petitions or extensions of time are required or any fees are due in order to enter or consider this paper or enter or consider any paper accompanying this paper, including fees for and RCE filing or for the net addition of claims, applicants' representative hereby requests any extensions

or petitions necessary and the Commissioner is hereby authorized to charge our Deposit Account 50-1129 for any fees.

Respectfully submitted,  
**Wiley, Rein & Fielding LLP**

Date: February 10, 2003

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WRFMAIN 12033107.1